



A-HC-78

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

(47)

मामला क्रमांक सन् 200

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अंतिम आदेश
	Misc. Appeal(C) No.1089 of 2007	
	<u>Appellants</u>	Branch Manager, ICICI, Lombard General Insurance Co. Ltd., near C.M.D. College, Link Road, Bilaspur, Distt. Bilaspur (C.G)
	<u>RESPONDENTS/ CLAIMANTS</u>	<u>Versus</u> 1 Mrs.Urmila devi, aged about 53 years, w/o late Dinanath Singh 2 Ku. Pinki Singh, aged about 17 years, d/o Late Dinanath Singh 3 Dhirendra Kumar Singh, aged about 23 years, s/o late Dinanath Singh 4 Jitendra Kumar Singh, aged about 26 years, s/o late Dinanath Singh All residents of Qr.No.B-112 Charcha, Distt. Korea (C.G) at present residents of Sarkanda near Shiv Mandir, Bilaspur
	<u>Driver</u>	5 Anil Kumar aged about 34 years, s/o Shri Narmada Prasad, r/o village Seepat, Police Station Seepat, Distt. Bilaspur (C.G).
	<u>Owner</u>	6 Asraf Ali s/o S.K. Ali, R/o near Dhan Mandi Budadev Nagar, Torva Bilaspur
	<u>MISC. APPEAL UNDER SECTION 173 OF MOTOR VEHICLES ACT</u>	
	<u>Appearance:</u> Shri Kishore Bhaduri and Shri Raj Awasthi, counsel for the appellants.	



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मामला क्रमांक M.A.C) 1089/2007 सन् 200

आदेश पत्रक (पूर्वानुबद्ध)

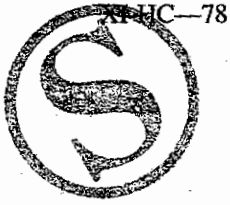
आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश - 2 -	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अंतिम आदेश
	DB: Hon'ble Shri L.C. Bhadoo & Hon'ble Shri Sunil Kumar Sinha, J. J. <u>ORAL ORDER</u> (09.10.2007) <u>L.C.Bhadoo, J.</u> Heard on admission. The insurance company has preferred this appeal u/s 173 of the Motor Vehicles Act 1988 whereby the learned 9th Addl. Motor Accident Claims Tribunal (F.T.C), Bilaspur, has awarded compensation amount to the tune of Rs.16,41,520/- and it has been further directed that the claimants are entitled for 6% interest on the said amount from the date of filing of claim petition. Learned counsel for the appellants argued that the Tribunal has erroneously taken into account the gross monthly income i.e. Rs.25,180/- whereas the learned Tribunal ought to have taken into account Rs.22,192/-. In the first instance the insurance Company is challenging the compensation amount, for which they have not sought any permission from the Tribunal as per the provisions of section 170 of the Motor Vehicles Act to prefer an appeal, because the Insurance Company as of right is entitled to file an appeal under the grounds available in section 149(2) of the M.V. Act.	



मामला क्रमांक M.A.(C) 1089/ सन् 2007

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश -3-	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अंतिम आदेश
	We are fortified in our view by the decision of the Apex Court in the matter of National Insurance Co.Ltd V. Nicolletta Rohtagi reported in III (2002) ACC 292 (SC). Apart from that as far as the income is concerned a certificate of income of the deceased (Annexure A-3) has been annexed with the appeal in which the gross income of the deceased namely Dinanath was Rs.25,180.09 per month and there were deductions against the P.F., F.P.F., Benevolent Fund, Pension Fund and Additional Pension Fund and thereby the net carry salary was Rs.22,192/-. The above deductions were being deposited in the account of Dinanath and the amounts which were being deducted under these heads were to be refunded to Dinanath on maturity of those schemes, therefore, it cannot be said that these amounts were not available to Dinanath on maturity of the scheme. The situation would have been different had these deductions were made against such head the amount of which was not refundable to the deceased, for example, if any amount is deducted against the transportation charges, house rent charges but all these deductions were being made under the schemes which on completion of the scheme were refundable to the employee, therefore, we do not find any substance in the argument of learned counsel for the appellant and the learned Tribunal has rightly taken into account the monthly income of the deceased as Rs.25,180/-, to that we do not find any	



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मामला क्रमांक M-ACC 1089/ सन् 2007

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश - 4 -	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अंतिम आदेश
	illegality or infirmity. Therefore we do not find any substance in this appeal. No other point has been raised in this appeal. There is also delay of 26 days in filing this appeal. Therefore, this appeal is liable to be dismissed on merits as well as on limitation and it is dismissed at the motion stage itself. Sd/- L.C. Bhadoo Judge	Sd/- Sunil Kumar Sinha Judge

(Rao)